

		MA 501-2
Department of Public Health and Human Services	Section:	INCOME
	Subject:	Native American Income
MEDICAL ASSISTANCE		

Supersedes: MA 501-2 (07/01/05)

References: 20 CFR 416.1102, .1103, .1120, .1121; .1123; .1124; .1150; ARM 37.82.101, and .903



GENERAL RULE--All income received by the household must be evaluated when determining eligibility. The sources of Native American income received must be determined in order to determine whether the income is countable or excluded according to numerous and varying public laws. Even if income will be excluded per policy, it **must** be listed on the system. Case notes must be documented with a thorough explanation of why the income was excluded or counted. Examples of documentary evidence of income can be found in MA 500. The following is a list of unearned Native American income and how the income is to be recorded in the system.

For BIA general assistance- see "Assistance payments" in MA 501-1. For non-Native American lease or royalty income, see "Lease or royalty income" in MA 501-1.

NATIVE AMERICAN MONIES Native American monies may be countable or excluded depending on the source and amount.

EXCLUDED SOURCES:

NOTE: Excluded funds (including the \$2000 per individual exclusions listed below) can accumulate in an account and the total amount of the excluded funds would remain excluded, regardless of how long the funds remain in the account. For example, an individual receives \$2300 per year in lease income from individually owned trust lands. The first \$2000 per year is excluded. The individual could retain three years' (or more) of this income (total \$6900) in his/her account and in this example, \$6000 would be excluded, as it was excluded when received. The remaining \$900 would be countable toward the resource limit. There is no limit to the length of time an individual can retain excluded funds, or the length of time

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excluded funds remain excluded. They retain exclusion status as long as they are clearly identifiable.

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1. Payments of up to \$2000 per individual per calendar year which are derived from leases or other uses of **individually-owned** trust or restricted lands. All payments received by an individual during the calendar year will be applied toward the \$2000 exclusion, regardless of whether the individual was eligible or applying for Medicaid in the month of receipt. Amounts in excess of \$2000 per year are countable in the month(s) received (see "Countable Sources", below).
 2. Interest earned on all Native American funds/resources.
 3. Judgment claim payments to or under:
 - Blackfeet, Gros Ventre and Assiniboine Tribes of Montana and Papago, Arizona Tribe (P.L. 97-408);
 - Alaska Native Claims Settlement Act (P.L. 92-203);
 - Navajo or Hopi Indians as financial or relocation assistance (P.L. 93-531, Section 22);
 - Grand River Band of Ottawa Indians (P.L. 94-540);
 - Confederated Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation by the Indian Claims Commission (P.L. 95-433);
 - Passamaquoddy Tribe and Penobscot Nation pursuant to the Maine Indian Claims Settlement Act of 1980 (P.L. 96-420);
 - Turtle Mountain Band of Chippewas (P.L. 97-403);
 - Red Lake Band of Chippewa Indians (P.L. 98-123, Section 3);
 - White Earth Band of Chippewa Indians in Minnesota (P.L. 99-264);
 - Saginaw Chippewa Indian Tribe of Michigan (P.L. 99-346);

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- Puyallup Tribe of Indians Settlement Act to members of the Puyallup Tribe in Washington (P.L. 101-41);
 - Seneca Nation (P.L. 101-503, Section 8 (b));
 - Grand Coulee Dam Settlement Act to the Confederated Tribes of the Colville Reservation (P.L. 103-436, Section 7 (b));
 - Indian Child Welfare assistance (25 USCS 1931);
 - Old Age Assistance Claim Settlement Act except for per capita payments in excess of \$2000 (P.L. 98-500, Section 8);
 - Seminole Nation of Oklahoma, Seminole Tribe of Florida, Miccosukee Tribe of Florida and independent Seminole Indians of Florida except for per capita payments in excess of \$2000.
4. Payments derived from sub-marginal lands held in trust for the following tribes under P.L. 94-114:
- Assiniboine and Sioux Tribes;
 - Blackfeet Tribe;
 - Fort Belknap Indian Community;
 - Crow Creek Sioux Tribe;
 - Lower Brule Sioux Tribe;
 - Devils Lake Sioux Tribe;
 - Oglala Sioux Tribe;
 - Rosebud Sioux Tribe;
 - Shoshone-Bannock Tribes;
 - Standing Rock Sioux Tribe.
 - Bad River Band of the Lake Superior Tribe of Chippewa Indians of Wisconsin;
 - Cherokee Nation of Oklahoma;
 - Cheyenne River Sioux Tribe;
 - Lac Courte Oreilles Band of Lake Superior; Chippewa Indians;
 - Keweenaw Bay Indian Community;
 - Minnesota Chippewa Tribe;
 - Navajo Tribe;
5. Per capita to enrolled members of the following tribes when distributed under:

P.L. 98-124, Section 5

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- Assiniboine Tribe of the Fort Belknap Indian Community and Assiniboine Tribe of the Fort Peck Indian Reservation.

P.L. 99-146, Section 6 (b), Docket 18S and 18U

- Bad River Reservation;
- Lac du Flambeau Reservation;
- Lac Courte Oreilles Reservation;
- Sokaogon Chippewa Community;
- Red Cliff Reservation;
- St. Croix Reservation;
- Keweenaw Bay Indian Community;
- Fond du Lac Reservation;
- Grand Portage Reservation;
- Nett Lake Reservation;
- White Earth Reservation.

P.L. 99-146, Section 6 (b), Docket 18C and 18T

- Lac Courte Oreilles Band of the Lake Superior Bands of Chippewa Indians;
- Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation;
- Sokaogon Chippewa Community of the Mole Lake Band of Chippewa Indians;
- St. Croix Chippewa Indians of Wisconsin.

P.L. 99-377 Section 4 (b)

- Chippewa of the Mississippi

P.L. 94-189

- Sac and Fox Tribe of the Mississippi, Iowa and Oklahoma

P.L. 97-458, 93-134 and 98-64

- Any other per capita payments of up to \$2000 per person, per payment, from funds held in trust by the Secretary of the Interior.

COUNTABLE SOURCES:

- 1. Amounts exceeding \$2000 per individual per calendar year received from leases or other uses of **individually-owned** trust or restricted lands. All lease payments received by an individual during the calendar year apply toward the \$2000 exclusion, regardless of whether the individual was applying for or receiving Medicaid in the month(s) of receipt.

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The best estimate of current year lease income dates and amounts may be based on the previous 12 months' lease income history if no significant change is expected.

- ▶ **NOTE:** When a significant change is expected within the next year, schedule the redetermination for the month prior to the month of the expected significant change. In the absence of an expected significant change, it is advisable to schedule redeterminations for December, in order to ensure that any previously anticipated income is removed from the case and a new \$2000 exclusion 'count' is started.

- ▶ Amounts in excess of the \$2000 per calendar year exclusion are countable in the month(s) of receipt. The anticipated dates of receipt of future payments should be noted and system alerts set to contact the recipient and/or issuer to confirm anticipated dates and amounts in order to accurately determine monthly eligibility.

- ▶ Example: Bonnie applies for Medicaid on June 5. She receives lease payments from individually-owned trust land. So far this year, she has received \$800 each in January and March. She states she does not expect her lease income to be significantly different than it was last year. To anticipate what she may receive during the remainder of this year, with Bonnie's agreement, look at her receipts last year from June through December. Last year, Bonnie received \$500 in July, \$300 in September and \$800 in December. Anticipate \$500 to be received in July (\$400 excluded, \$100 countable), and sent alerts for August and November to anticipate amounts for September and December.

When lease payments cannot be anticipated (such as when there is no history and no lease in place in advance), no income can be anticipated. Case note lack of history and no lease.

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2. Bureau of Indian Affairs (BIA) payments;

3. Tribal payments not distributed per capita;

NOTE: Crow Elders Payments (a.k.a. 107th Meridian Settlement) are tribal payments.



4. Tribally managed gaming revenues distributed per capita (P.L. 98-64);

NOTE: Gaming revenues are not held in trust by the Secretary of the Interior/BIA.



5. farm and grazing leases, oil and gas royalties, and mineral rights income from land other than trust or restricted land;

6. Transfers of countable monies from other Native American agencies.

NOTE: Some of the above may be excluded under another provision such as irregular/infrequent income.

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